



Judicial Proceedings Panel
Minutes of December 12, 2014 Public Meeting

AUTHORIZATION: The Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (JPP), is a federal advisory committee established pursuant to Section 576(a)(2) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, as amended by section 1731(b) of the NDAA for FY 2014, and in accordance with the Federal Advisory Committee Act of 1972, the Government in Sunshine Act of 1976, and governing federal regulations.

EVENT: The JPP held a public meeting on December 12, 2014, from 10:11 a.m. to 4:42 p.m. This meeting continued the Panel's review of the Special Victims' Counsel (SVC) programs established by each of the military Services. In August 2013, the Secretary of Defense directed the Services to establish programs to provide individual legal representation, free of charge, to Service members who are victims of sexual assault while serving on active duty. Congress subsequently enacted the SVC programs into law, and the programs became fully operational within each of the Services on January 1, 2014. At the meeting, Panel members heard perspectives about the SVC programs from victim advocacy organization representatives, sexual assault response coordinators, SVCs and their clients, and the Judge Advocates General and senior lawyers from each of the Services.

LOCATION: The meeting was held at the Holiday Inn Arlington, Arlington Ballroom, 4610 N. Fairfax Drive, Arlington, VA 22203

MATERIALS: A verbatim transcript and video recording of the meeting, as well as preparatory materials provided to the JPP members prior to, during and after the meeting, are incorporated herein by reference and listed individually below. Materials received by the Panel are available on the JPP website: <http://jpp.whs.mil>.

PARTICIPANTS

Participating JPP Members:

The Honorable Elizabeth Holtzman, Chair
The Honorable Barbara Jones
Vice Admiral (Retired) Patricia A. Tracey
Professor Thomas W. Taylor
Mr. Victor Stone

Participating JPP Staff:

Lieutenant Colonel Kyle Green, U.S. Air Force, JPP Staff Director

Other Participants:

Ms. Maria Fried, Office of the General Counsel, Department of Defense, Designated Federal Official (DFO)

Presenters:

Mr. Don Christensen, President, Protect Our Defenders, Washington DC
Ms. Phylista Dudzinski, Sexual Assault Response Coordinator, Tyndall Air Force Base, Florida
Ms. Simone Hall, Sexual Assault Response Coordinator, U.S. Coast Guard Base, National Capital Region
Ms. Marie A. Brodie, Installation Sexual Assault Response Coordinator, Marine Corps Base Camp Lejeune, North Carolina
Ms. Gloria M. Arteaga, Sexual Assault Response Coordinator, Naval Air Station Patuxent River, Maryland
Sergeant First Class Bridgett Joseph, U.S. Army, Sexual Assault Response Coordinator, 25th Combat Aviation Brigade, 25th Infantry Division, Schofield Barracks, Hawaii
Lieutenant Commander Kelley Stevens, U.S. Coast Guard, Special Victims' Counsel, Alameda, California, and Petty Officer N.S.
Major William D. Ivins, III, U.S. Marine Corps, Regional Victims' Legal Counsel-West, Camp Pendleton, California, and Ms. J.B.
Captain Christopher Mangels, U.S. Air Force, Special Victims' Counsel, Peterson Air Force Base, Colorado, and Ms. R.S.
Lieutenant Kathryn DeAngelo, U.S. Navy, Victims' Legal Counsel, Naval Station Norfolk, Virginia, and Airman V.T.
Captain Brian E. Stransky, U.S. Army, Operational Law Attorney, 1st Stryker Brigade, 4th Infantry Division, Fort Carson, Colorado, and Specialist A.S.
Vice Admiral Nannette DeRenzi, Judge Advocate General, U.S. Navy
Lieutenant General Flora D. Darpino, The Judge Advocate General, U.S. Army
Lieutenant General Christopher F. Burne, The Judge Advocate General, U.S. Air Force
Rear Admiral Steven D. Poulin, Judge Advocate General and Chief Counsel, U.S. Coast Guard
Colonel John Baker, U.S. Marine Corps, Deputy Director, Judge Advocate Division, Military Justice & Community Development

Public Comment:

None

MEETING MINUTES

The DFO opened the public meeting at 10:11 a.m. The Honorable Elizabeth Holtzman provided opening remarks, reviewed the tasks of the JPP and the agenda for the meeting.

Advocacy Organization Perspective on the SVC Program

The JPP members first heard from Mr. Don Christensen, President, Protect our Defenders. Mr. Christensen provided perspectives on the SVC programs and information about the need for amendment of the Rules for Courts-Manual (RCM) to define the role of SVCs to empower them to fully represent their clients before, during and after courts-martial. He stressed the need for amended changes to clarify SVC entitlements in evidence discovery and access to motions. He also discussed the need to clarify rules for when and how SVCs may advocate before the court and to what extent schedules of SVCs must be considered when setting dates for hearings. He

told the JPP that change is needed in the rules for when and how SVCs may represent their clients who face adverse or criminal actions. Lastly, Mr. Christensen spoke about experience levels among SVCs and the need for more experienced counsels in SVC positions.

Perspectives on the SVC Program from Sexual Assault Response Coordinators (SARCs)

The JPP members heard from individual SARCs who shared their experiences and perspectives about the SVC programs: (1) Ms. Phylista Dudzinski, Sexual Assault Response Coordinator, Tyndall Air Force Base, FL, (2) Ms. Simone Hall, Sexual Assault Response Coordinator, U.S. Coast Guard Base, National Capital Region, (3) Ms. Marie Brodie, Installation Sexual Assault Response Coordinator, Marine Corps Base Camp Lejeune, NC, (4) Ms. Gloria Arteaga, Sexual Assault Response Coordinator, Naval Air Station Patuxent River, MD, and (5) Sergeant First Class Bridgett Joseph, Sexual Assault Response Coordinator, U.S. Army, Schofield Barracks, HI. The presenters shared personal experiences about working with SVCs/VLCs and their thoughts about what impact their Services' SVC/VLC program has had on supporting sexual assault victims. Their comments and impressions of the programs were generally positive. Challenges mentioned by the witnesses included delays victims sometimes experienced in meeting with SVCs/VLCs, confusion about the role of SVCs/VLCs within the Sexual Assault Prevention and Response (SAPR) program, and insufficient numbers of SVCs/VLCs.

Clients and their SVCs: Experiences from the Field

The Panel next heard from individual SVCs/VLCs and their clients, who shared their perspectives and experiences of being represented by a SVC/VLC: (1) Lieutenant Commander Kelley Stevens, U.S. Coast Guard, Special Victims' Counsel, Alameda, California, and Petty Officer N.S., (2) Major William D. Ivins, III, U.S. Marine Corps, Regional Victims' Legal Counsel-West, Camp Pendleton, California, and Ms. J.B., (3) Captain Christopher Mangels, U.S. Air Force, Special Victims' Counsel, Peterson Air Force Base, Colorado, and Ms. R.S., (4) Lieutenant Kathryn DeAngelo, U.S. Navy, Victims' Legal Counsel, Naval Station Norfolk, Virginia, and Airman V.T., (5) Captain Brian E. Stransky, U.S. Army, Operational Law Attorney, 1st Styker Brigade, 4th Infantry Division, Fort Carson, Colorado, and Specialist A.S. The presenters discussed their work and interaction with other SAPR personnel, including SARCs and victim advocates (VAs). They all described positive overall experiences with SARCs and VAs, but some victims said their experiences with SAPR support were somewhat negative before they began working with a SVC/VLC. Several of the victims requested expedited transfers, often due to retaliation they experienced from unit members and social peers. They indicated retaliation was less of an issue after transferring, although some indicated peers and coworkers at their new duty stations still knew about their situation because of small career fields or communities. Each of the victims spoke highly of their SVC/VLC, and each expressed the value in having an attorney representing them and assisting them through the legal process. The SVCs/VLCs described the challenges they faced in their work, including limited rules or guidance regarding the role of SVC/VLC and limited access to case information.

Senior Judge Advocate Perspectives

The JPP members heard from each of the Services' Judge Advocate Generals/Senior Leader who shared their perspectives about their Service's SVC program and other issues under consideration by the JPP. The presenters were: (1) Vice Admiral Nannette DeRenzi, Judge Advocate General, U.S. Navy, (2) Lieutenant General Flora D. Darpino, The Judge Advocate General, U.S. Army, (3) Lieutenant General Christopher F. Burne, The Judge Advocate General, U.S. Air Force, (4) Rear Admiral Steven D. Poulin, Judge Advocate General and Chief Counsel, U.S. Coast Guard, (5) Colonel John Baker, U.S. Marine Corps, Deputy Director, Judge Advocate Division, Military Justice & Community Development. The presenters shared their perspectives about their respective Service SVC/VLC programs and how the Services are coordinating with each other on SVC/VLC program administration. In general, all indicated that their SVC/VLC programs have been very beneficial and provided significant support to victims, and they described how the programs and Service efforts have improved victims' rights. They told the JPP they are working diligently to review the newly developed programs and make changes as needed. Each presenter also described how their Service selected and trained SVCs/VLCs.

The TJAGs/senior judge advocate leaders also spoke about the Panel's review of Article 120. They all agreed that the laws should be understandable and simple to apply. They said that some definitions within Article 120 might need to be modified or clarified, but all recommend against significant revisions to Article 120. All said Article 120 did not require modification to effectively respond to sexual assault crimes involving abuse of authority, and none felt Article 120 should be bifurcated to separate penetrative and contact (non-penetrative) offenses.

Having received no requests for public comment to the Panel, the DFO closed the public meeting at 4:42 p.m.

CERTIFICATION

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.



Elizabeth Hóltzman
Chair
Judicial Proceedings Panel

MATERIALS

Meeting Records:

1. Transcript of December 12, 2014 JPP meeting, prepared by Neal R. Gross and Co., Inc.
2. Video Recording of December 12, 2014 JPP meeting, filmed by Army Television.

Meeting Materials:

3. Public Meeting Table of Contents
4. Meeting Agenda
5. Presenter Biographies

Supplemental Written Materials Provided by November Public Meeting Presenters

6. Summary of Meeting Read-Ahead Materials
7. Remarks to the JPP from Lieutenant Colonel Ryan Oakley (Nov 14, 2014), Deputy Director, Office of Legal Policy (OUSD (Personnel and Readiness) (3 pages)
8. DoD Directive Number 5400.11, *DoD Privacy Program*, dated Oct 29, 2014 (17 pages)
9. DoD Directive 5400.07, *DoD Freedom of Information Act (FOIA) Program*, Current through January 2, 2015 (6 pages)
10. Suggested Changes to Rules for SVC Practice (4 pages)

Other Materials on SVC Program Implementation

11. Summary Chart containing current Special Victim Counsel Program Data (25 pages)
12. *H.C. v. Bridges*, ARMY MISC 20140793 (7 pages)
13. Excerpt from Senator K. Gillibrand's Statement regarding the Military Justice Improvement Act relating to the SVC Program (3 pages)

Other Reference Materials on Victim Access to Information

14. Comparison Chart: Article 46, before and after enactment of the FY14 NDAA (2 pages)
Rule for Court-Martial 801 (3 pages)

Proposed Changes to the Manual for Courts-Martial that impact Sexual Assault Prosecutions

15. Joint Service Committee Proposed EO Amendments to the Manual for Courts-Martial related to the Prosecution of Sexual Assault (23 pages)